

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES

ISSUED BY STATE BOARD OF ACCOUNTS

September 1999

JUNE TRAINING SCHOOL

The State Board of Accounts extends its deepest appreciation to the officers and committees of the Indiana League of Municipal Clerks and Treasurers for making the arrangements and handling the registration for the School. Next year's June School will be held June 7 and 8, 2000 at the Indianapolis Marriott on the east side of Indianapolis.

MOTOR VEHICLE HIGHWAY FUND-USE FOR SIDEWALKS

Official Opinion No. 64-1965, issued by the Office of the Attorney General, allows funds distributed to cities and towns from the State motor vehicle account to be used for the purposes of construction, repair, and maintenance of sidewalks adjacent to streets in such cities and towns.

TRANSFER OF APPROPRIATIONS WITHIN BUDGET

The following provisions of IC 6-1.1-18-6 set out the manner in which appropriations may be transferred by certain officials of a political subdivision:

"(a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if: (1) They determine that the transfer is necessary; (2) The transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; (3) The transfer is made at a regular public meeting and by proper ordinance or resolution; and (4) The transfer is certified to the county auditor.

"(b) A transfer may be made under this section without notice and without the approval of the state board of tax commissioners."

GARBAGE COLLECTION AND DISPOSAL

The following are some statutory references which support the State Board of Accounts' audit position concerning garbage collection and disposal.

IC 36-1-3-8(6) states: A unit does not have the power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services as determined under IC 8-1-25-2.

IC 36-9-23 is entitled "Municipal Sewage Works" and applies to all municipalities.

IC 36-9-23-25 is entitled "Fees; factors utilized to establish; persons obligated to pay; disposition of certain fees; adoption of different schedules permitted."

IC 36-9-23-25(d)(8) states the municipal legislative body may use the following factor (among

GARBAGE COLLECTION AND DISPOSAL (continued)

others) to establish sewage service fees: "The cost of collecting, treating, and disposing of garbage in a sanitary manner, including equipment and wages." The statute further provides fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works.

IC 36-9-25 is entitled "Sanitary Department in Certain Cities" and applies to second class cities in which this statute has been adopted by ordinance and also to municipalities in Lake County that have adopted this chapter by ordinance.

IC 36-9-25-10 sets out powers of the board of sanitary commissioners and Section 10(13) states they may collect and remove, or contract for the collection and removal of, all garbage, ashes, dead animals, refuse, and wastes from domestic premises, and construct or have constructed stations, including barns, garages, sheds, blacksmith shops, dumps, incinerators, and all other useful or necessary improvements for this purpose. This includes the power to collect and remove soil and other sewage in areas not provided with sewers, and then discharge or dispose of it into sewage works.

IC 36-9-30 is entitled "Solid Waste Collection and Disposal" and applies to all units except townships.

IC 36-9-30-2 defines "solid waste": to mean "all putrescible and nonputrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, street cleaning, dead animals, offal, and solid commercial, industrial and institutional wastes."

IC 36-9-30-5 sets out authorization and provisions related to contracting for collection or disposal. Subsection 5(b) requires all fees collected by the unit shall be deposited in the treasury of the unit for the administration, operation, and maintenance of the solid waste collection and disposal project. Subsection 5(d) states in part: "If a contract executed under subsection (a) or (b) will yield a gross revenue to a contractor (other than a governmental entity) of at least twenty-five thousand dollars (\$25,000) during the time it is in effect, then the unit must comply with IC 36-1-12-4 in awarding the contract. The unit shall require the bidder to submit a financial statement, a statement of experience, the bidder's proposed plan or plans for performing the contract, and the equipment that the bidder has available for the performance of the contract."

IC 36-9-30-15 states: "The acquisition, establishment, construction, installation, operation, and maintenance of facilities and land for the collection and disposal of solid waste may be financed through general taxation, service fees, or a combination of these methods."

From the foregoing statutes, there appears to be three methods available for providing trash or solid waste collection and disposal:

1. Under IC 36-9-23, the service charges can be a part of the sewage utility fees. IC 36-9-25 also authorizes all second class cities and all municipalities in Lake County to make this service a part of the sanitary district service fees.
2. IC 36-9-30 authorizes a separate utility along with a separate fund for solid waste collection, treatment, and disposal.
3. IC 36-9-30 also allows a unit to pay for this service by general taxation.

GARBAGE COLLECTION AND DISPOSAL (continued)

To summarize, if a unit wishes to either establish a pickup service or to change from a tax-supported service to a user fee service, the foregoing statutes should be reviewed by the unit's legal counsel. The unit's attorney should prepare an ordinance expressing the governing body's wishes, the ordinance should be advertised, public hearings should be conducted, and the legislative body should act thereon. The ordinance should set out such provisions as:

1. The service to be provided.
2. The area in which the service is to be provided.
3. The method by which the service is to be provided.
4. The charges for the service. The charges should be billed separately even if established as a service of the sewage utility.
5. The method of payments of user charges, periods covered, due dates, location of places payments are to be received, etc.
6. Any penalties to be assessed for late payments.
7. The method of accounting for service charges. The Home Rule statute, as well as the other statutes cited, require the revenues to be restricted to the amount reasonably related to the cost of providing the services. None of the statutes authorize a profit to be made or for any surplus to be transferred to another fund for other uses. Accounting shall be such that documentation will be provided to comply with the foregoing provisions.

SPECIAL JUDGES AND JUDGES PRO TEMPORE-CITY AND TOWN COURTS

Even though IC 33-10.1-2-1(b) and IC 33-10.1-4-2(a) authorize compensation for special judges serving in city and town courts, Indiana Rules of Procedure prohibit such payment to special judges.

(Trial Rule 79.1) covers the method of selecting special judges in city and town courts and it appears that insofar as any conflict may exist between any other law and this Rule, such Rule will prevail.

This Rule states that the individual serving as a special judge is not entitled to any special judge fees.

Based upon the foregoing, it does not appear there is authority for such special judges to be compensated.

Y2K BACKUPS

Just in case an unforeseen glitch in your computer system occurs on January 1, 2000, we suggest that you consider the following prior to December 31, 1999:

Y2K BACKUPS (continued)

1. Backup all transaction files on disk or tape. Backups should include the operating system such as Windows NT, Windows 95, Windows 98, etc., the application computer programs, and data contained in the accounting system. Be sure these backups are tested.
2. To ensure a complete set of financial records is available for the next regularly scheduled audit, consider printing a copy of all reports generated by your system including approved forms required for audit as of the last business day of December, 1999.

Additional information relating to specific units is available on the Internet at:
<http://www.state.in.us/iny2k>

TRANSFER OF TITLE OF SURPLUS PROPERTY TO VOLUNTEER FIRE COMPANY

A governmental body may transfer title of surplus property to a volunteer fire company for the volunteer fire company's use in providing fire protection or emergency services.

A volunteer fire company located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the volunteer fire companies located in the same county as the governmental body may be transferred to any volunteer fire company in Indiana.

A governmental body may transfer title of surplus property to a volunteer fire company by:

- (1) sale;
- (2) gift; or
- (3) another arrangement acceptable to the governmental body and the volunteer fire company. (IC 5-22-22-12)

IC 5-22-22-12(a) defines surplus property to include fire trucks, emergency service vehicles, and firefighting or emergency services equipment.

CHILD LABOR LAW RESTRICTIONS

Public Law 234, House Enrolled Act 2051, which was effective July 1, 1999, made several changes to IC 20-8.1-4-20 regarding child labor restrictions.

A summary of such restrictions follows:

Children 14 and 15 years of age may not work more than 18 hours per week nor may they work after 7:00 p.m. during the school year. During the Summer, they may work up to 40 hours per week and as late as 9:00 p.m.

Children 16 years of age may not work more than 30 hours per week (40 with written parental consent) nor may they work past 10:00 p.m. during the school year. During the Summer they may work up to 48 hours per week with written parental consent.

Children 17 years of age may not work more than 30 hours (48 with written parental consent) and may not work past 10:00 p.m. during the school year.

ANNUAL REPORT

IC 5-3-1-3 provides each city controller or city and town clerk-treasurer shall have published an annual report of the receipts and expenditures of such city or town, showing the same "by funds and appropriations," within sixty days after the close of each calendar year. The total indebtedness at December 31 of such municipality must also be shown on this published report.

The annual report is to be published one time in two newspapers unless there is only one newspaper in the city or town, in which case publication in the one newspaper is sufficient. If no newspaper is published in the city or town then publication is to be made in a newspaper published in the county in which the city or town is located and that circulates within the city or town.

In cooperation with the Bureau of Census, United States Department of Commerce, United States Department of the Treasury, and State Board of Tax Commissioners, the State Board of Accounts in 1981 designed a new set of report forms which satisfies statutory requirements and replaces various forms and reports that were previously required by the aforementioned federal and state agencies and departments. The 1999 forms have some slight modification, but basically remain the same.

All second class cities and those cities and towns that prepare a Comprehensive Annual Financial Report (CAFR) will continue to complete form CTAR-2. All the other cities and towns will continue to use CTAR-1.

One modification for the 1999 CTAR-1 is that those cities and towns with departmentalized budgets will have to fill out Part 3B-Disbursements by Departmental Budget for General Fund as was required prior to 1998.

The certification on the cover page, Parts 1 and 6, with the accompanying footnote, shall be published. In our opinion, this publication will satisfy state statutes, Local Governmental Data Base input documents, and Bureau of Census annual reporting requirements. You should use and/or publish only those parts that apply to your particular unit. (For instance, if you have no long-term indebtedness at December 31, 1999, it will not be necessary for you to include and publish Part 6 of the report.) If questions arise, please call telephone number 232-2518, area code 317.

The blank reports with instruction will be mailed to all municipal fiscal officers early in December. A preprinted postage free return envelope addressed to the Census Bureau, Jeffersonville, Indiana, is also included.

PERSONS WHO MAY SOLEMNIZE MARRIAGES

Marriages may be solemnized by any of the following:

- (1) A member of the clergy of a religious organization (even if the cleric does not perform religious functions for an individual congregation), such as a minister of the gospel, a priest, a bishop, an archbishop, or a rabbi.
- (2) A judge.
- (3) A mayor, within the mayor's county.
- (4) A clerk or a clerk-treasurer of a city or town, within the county in which the city or town is located.
- (5) A clerk of the circuit court
- (6) The Friends Church, in accordance with the rules of the Friends Church:

PERSONS WHO MAY SOLEMNIZE MARRIAGES (continued)

- (7) The German Baptists, in accordance with the rules of their society.
- (8) The Bahai faith, in accordance with the rules of the Bahai faith:
- (9) The Church of Jesus Christ of Latter Day Saints, in accordance with the rules of the Church of Jesus Christ of Latter Day Saints.
- (10) An imam of a masjid (mosque) in accordance with the rules of the religion of Islam. (IC 31-11-6-1)